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Turkey's 'Critical Europeanization': Evidence from Turkey's immigration policies

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Turkey's "Critical Europeanization": Evidence from Turkey's Immigration Policies

Juliette Tolay

in:

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edited by

Seçil Paçacı Elitok and Thomas Straubhaar

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Turkey's "Critical Europeanization": Evidence from Turkey's Immigration Policies

Juliette Tolay

Introduction

Turkey's relationship with Europe has a long and complex history. It does not even start in 1959, when Turkey applied for an associate membership to the EU, but dates back from the Ottoman Empire interactions with European powers over the centuries, and the way subsequently this heritage has been memorized and interpreted. The Euro-Ottoman history in itself is ambivalent: it features a powerful and proud Ottoman Empire, well aware of military and technological superiority over backward late-Middle Age, European entities; it features an "equal among others" Ottoman Empire, engaging in warfare and alliances with the emerging European powers during the European Renaissance; and it features in the 19th century a weakened Ottoman Empire, threatened by European imperialist ambitions, but looking for its salvation in its Westernization, as a means to resist European powers.¹

The history of the Turkish republic is no different. In the Turkish psyche, Europe represents both a model which Turkish citizens look up to, as well as an imperialistic force, from which Turkey had to free and protect itself. It was particularly true during the foundational experience of creating Turkey as a modern nation-state, when Mustafa Kemal fought against European powers in Anatolia (mainly British, Greek and French troops), while putting into place a political system openly emulating European institutions and values. In Turkey, Europe is both admired and despised. It is still true today.

Such an ambivalent relationship uniquely impacts Turkey's bid to EU membership in the 21st century. The well-known story of Turkey's EU aspiration

¹ Goffman (2002), Faroqhi (2004).

is one of a twin process: the technical one, whereby Turkey, since 2001, engaged in a fast-paced and extensive reform movement of its laws and institutions in order to harmonize with the Copenhagen criteria first, and then the broader *acquis communautaire*, and the political one, whereby important political actors in the different European countries and in Turkey have expressed fluctuating enthusiasm and reluctance towards Turkey's EU membership. These two processes have been intertwined and interactive, as the extraordinary reforms done in the 2001–2004 period led to the opening of accession negotiations in 2005, and as the rise of strong voices against Turkey's membership in Europe, and the rise of skepticism in Turkey, have considerably slowed down the reform and negotiation process since 2006.²

One of the areas in which the EU is sharply influencing Turkey's policy is the field of asylum and migration. In the 1990s, Turkey used to have an outdated, incomplete and largely ad-hoc policy towards immigration into the country, including asylum, regular and irregular migration and border management. By 2011, the picture is quite different: in all domains, different reform packages have been passed recently, and a comprehensive new immigration policy has been drafted.

The overall timing and nature of these reforms indicate the essential role played by the EU. However, it is important to understand why and how exactly the EU influenced this process. Much has been written about "Europeanization", or the way in which the EU, intentionally or not, manages to transform member and candidate countries' policies, politics and identities so that they would better align with EU practices.³ The way Turkey in particular becomes Europeanized has also been extensively discussed.⁴ The literature shows that there are different levels of "Europeanization", with some reflecting an instrumental adoption of policies to gain particular advantages, while others denoting a deeper transformation and internalization of norms, characterizing a more genuine "Europeanization".⁵ From a European perspective, it is extremely important to understand how transformative and genuine Turkey's reforms in

² Although, such discourses and behaviors are themselves predicated on more structural, economic, institutional and political developments in Turkey and in the EU. See Tocci (2007).

³ Featherstone/Radaelli (2003), Schimmelfennig/Sedelmeier (2005), Checkel (2007), Graziano/Vink (2007), Schimmelfennig (2009).

⁴ Diez/Agnantopoulos et al. (2005), Kale (2005), Kaya (2007), Oğuzlu/Ozpek (2008), Ulusoy (2009), Lagrand (2010).

⁵ Lavenex/Uçarer (2004), Diez/Agnantopoulos et al. (2005), Schimmelfennig/Sedelmeier (2005), Bauer/Knill et al. (2007), Schimmelfennig (2009).

the field of asylum and migration are. Migration has become a particularly salient issue in Europe because it connects to existential issues such as human rights and individual freedoms, as well as concerns over societal and economic security. Knowing whether Turkey, its state and society, genuinely fall in line with the values and concerns of European countries is of crucial importance for many European actors.

As this chapter demonstrates, critical actors in Turkey are engaged in a genuine, non-instrumental process of reform in the field of asylum and migration. However, contrary to what the Europeanization literature indicates, it is not so much because they identified closely with Europeans, but rather because they *distanced themselves* from European practices. In many ways, Turkey has selectively adopted the values and concerns of Europe, and transformed into a truly "Turkish" approach to asylum and migration. This has activated a sense of pride among Turkish officials, with the feeling that they can do "better than the Europeans", or be "more European than the Europeans".⁶ This phenomenon that I call "critical Europeanization" is not a traditional form of Europeanization, yet one that fits particularly well Turkey's ambivalent historical perception of Europe.

To understand this process better, this chapter presents succinctly the reforms adopted in the field of migration, the different ways in which the EU has influenced the process and the critical reactions that it has triggered in Turkey.

Turkey's Immigration Policy Profile and Its Reforms

When one thinks of Turkey as a country of immigration, one often sees Turkey as a "new" country of immigration, devoid of any real immigration policy, and one which needs to catch up with Europe and adopt appropriate policies. This is only partly correct. Turkey is historically a country that has received important inflows of immigration, especially from the Balkans, all throughout the 20th century. But, this fact was overshadowed by the large influx of Turkish migrants into Europe starting in the 1960s, which, on the international migration scene, characterized Turkey as a country of emigration.⁷

⁶ Meeting with a police officer, October 2009, Van, Turkey, and with officials in charge of migration, October 2009, Ankara, Turkey.

⁷ Kirişçi (2007 b), Abadan-Unat (2011).

Similarly, Turkey had an immigration policy, articulated principally in the Law on Settlement of 1934, foreseeing the immigration of migrants of “Turkish culture or origin”, and the rights to which they would have access as they settled on Turkish territory.⁸ Turkey was also among the drafters and first signatories of the Geneva Convention in 1951, practically granting Turkey with an asylum policy.⁹

However, these existing policies came to a serious crisis by the end of the Cold War, when the sudden qualitative and quantitative change in migration flows in the region rendered existing regulations largely irrelevant and archaic. By the 1990s, a large majority of newcomers coming from Eastern Europe and the Middle East to Turkey were “foreigners”(i. e., “non-Turkish”), and could not be accepted in Turkey under the Law on Settlement. Likewise, most of the asylum seekers were coming from non-European countries (mainly Iran and Iraq) and therefore would not qualify as Convention refugees under the geographical limitation of the Geneva Convention that Turkey maintained.¹⁰ Hence, the impression that Turkey was a “new” country of immigration, and that it was “lacking” any immigration policy.

By the end of the Cold War, the Turkish state regulation of migration issues overall was incomplete and inconsistent. Pieces that made up Turkish immigration policy were to be found in various places such as in the Law of Resettlement,¹¹ the Law on Foreigners,¹² the Turkish Citizenship Law¹³ and in various institutions, mainly the Ministry of Interior (especially in the Foreigners Department within the General Directorate of Security) and the Ministry of Foreign Affairs, as well as others.¹⁴ The new situation warranted new policies, and it is true that it took some time for Turkey to adapt its regulations. There have been several publications detailing the many reforms that took place in the last 20 years,¹⁵ but the main reforms could be summarized as follows:

⁸ Kirişçi (1996 a, p. 8).

⁹ Frelick (1997).

¹⁰ This option (recognizing as refugees only asylum seekers coming from Europe) is offered in Article 1B(1) of the 1951 Geneva Convention Related to the Status of Refugees. Most signatories of the Convention lifted the geographical limitation in 1967, but Turkey, to this day, retains the geographical limitation.

¹¹ İskan Kanunu.

¹² The Law on Movement and Residence of Foreigners in Turkey.

¹³ Türk Vatandaşlığı Kanunu.

¹⁴ The Gendarmerie, the Coastal Guard, the Ministry of Health and the Ministry of Labor and Social Security are also involved in migration issues. See Kirişçi (2004, pp. 4–9).

¹⁵ Kale (2005), Kaya (2009 b), Lagrand (2010).

- *Early step: the 1994 Asylum Regulation.*¹⁶ The first serious step that was taken to reform Turkey's regulations regarding migration was in the realm of asylum and the adoption of an important regulation in 1994. Since 1951, Turkey has been party to the Geneva Convention Relative to the Status of Refugees, but kept the original geographical limitation. This meant that only asylum seekers coming from Europe could be recognized as refugees. By the early 1990s, there were no regulations governing the status of non-European refugees in Turkey. The 1994 Regulation remedied this in a compromise solution, by granting rights to non-European Refugees to apply for asylum in Turkey (both to Turkish authorities and the UNHCR), with the condition that, once recognized with a refugee status, they would have to be resettled in a third country. Far from ideal, this regulation (amended in 1999 and 2006 to accommodate more realistically the time within which asylum seekers had to apply for asylum) is the main framework on which Turkey's asylum system functioned up to 2011.¹⁷
- *First package of reforms: 2002–2005 reforms.* Overall, the period of 2002–2005 represented a time of earthquake reforms in the Turkish legal system. In order to ensure the opening of negotiations with the EU (eventually granted in 2005), Turkey engaged in a breath-taking large-scale revision of many of its regulations. This impacted the realm of asylum and migration, as well. Among other things, in 2003, the Law on Work Permits for Foreign Nationals was adopted, the Law on Citizenship was amended and the additional protocols against migrant smuggling and human trafficking of the United Nations Convention Against Transnational Organized Crime were adopted.¹⁸ 2002–2005 was also a period when Turkey was working hard on adjusting its visa system to the Schengen negative and positive lists, and took several steps in that direction.¹⁹
- *Further plans for comprehensive reforms: the 2005 National Action Plan for the Adoption of the EU Acquis in the Field of Asylum and Im-*

¹⁶ The official title is: The Regulation On The Procedures And the Principles Related to Population Movements and Aliens Arriving In Turkey Either As Individuals Or In Groups Wishing To Seek Asylum Either From Turkey Or Requesting Residence Permission In Order To Seek Asylum From Another Country.

¹⁷ Kirişçi (1996 b), Kaya (2009 a).

¹⁸ Çiçekli (2006), Kaya (2009 b).

¹⁹ Kirişçi (2005).

migration (NAP). Following the enforcement in 2003 of the Turkish National Program on the Adoption of the EU *Acquis Communautaire*, a systematic effort was undertaken by Turkish authorities to identify the areas of fit and misfit between the *acquis communautaire* and Turkish regulations. This effort resulted in the NAP,²⁰ identifying the necessary reforms and proposing a timeframe to undertake them. This document is important, as it seems to be the first effort in which Turkish authorities think comprehensively about their immigration policy.

- *Period of adjustments: 2005–2008.* Following the number of changes that occurred in the 2002–2005 period, a couple more important but limited reforms were achieved in the subsequent years. This includes the revision of the Law on Settlement in 2006 (which improved some of the outdated language coming from 1934, but without changing the main logic of the document), the circulation of the Implementation Circular from the General Directorate of Security in 2006 encouraging a better implementation of the asylum system, the adoption of a new Passport Law in 2007 and the amendment of the Land Registry Law in 2008 providing easier access to property to foreigners.²¹
- *Launch of comprehensive reforms: 2008.* In line with the principles adopted in the 2005 National Action Plan, a task force on migration and asylum was established in late 2008 (“Asylum and Migration Unit for the development and implementation of legislation and administrative capacities”).²² The main goal of this task force was to draft new legislation on asylum and foreigners in Turkey and delineate the new responsibilities of a new agency responsible for asylum and migration. This new step in the process of reforms of Turkey’s migration policies is extremely important for two reasons: first, it engages in the creation of a new comprehensive migration policy for Turkey, and second, it demonstrates a change in approach and mindset within Turkish bureaucracy regarding issues of asylum and migration. This team of bureaucrats constituting the task force is ex-

²⁰ Turkish National Action Plan for the Adoption of the EU *Acquis* in the Field of Asylum and Migration (2005).

²¹ Kaya (2009 b).

²² İltica ve Göç Mevzuatı ve İdari Kapasitesini Geliştirme ve Uygulama Bürosu. This office is attached to the undersecretary of the Ministry of Interior.

tremely open to change and new ideas, having been consulting systematically with academics, international organizations and NGOs (a quite unusual approach for Turkish bureaucracy). By mid-2011, they had an official draft of a new Law on Foreigners and International Protection ready to be submitted to the Parliament.²³ The activities undertaken by this task force also seem to have had a trickle-down effect on actual policies, especially on asylum, as new circulars have been put into place to address some of the blatant problems in the system, as highlighted by the team of the task force.²⁴

By 2011, the extraordinary reform journey undertaken by Turkey reflects a story of overall compliance to EU norms and regulations. As European actors expressed their concerns through official and unofficial channels, Turkish authorities reacted and initiated a process of reforms. This process was, however, never linear and progressive, but rather involved a lot of politics, resistance and unequal developments. There is even one area where compliance initially took place, but then got reversed: this is the case of visa policies.

The area of visa policy and border management was one of the issues included in the harmonization packages in the 2002–2003 period. The agreement reached at that point was that Turkey would gradually adopt the negative list of the Schengen agreement to align with the visa policy of the majority of EU member states. Turkey started to implement that policy, and by 2005, Turkey was only five countries short on the list to be fully aligned to the Schengen negative list (down from 13 countries in 2002).²⁵ However, this policy changed in 2005, at which point Turkey started to refrain from imposing new visa regulations on new countries. By 2009, Turkey started to actively reverse its policy by seeking to systematically remove visa requirements with almost every country it was entering in a political agreement. In 2009, in opposition to the Schengen practice, Turkey agreed to lift visa requirements with Syria, Libya, Jordan and Albania; it continued to do so in 2010 with Russia, Lebanon

²³ Meeting with members of the Asylum and Migration Unit, October, December 2009 and June 2010, Istanbul and Ankara, Turkey.

²⁴ In 2010 only, the following were put into place: a Circular on Irregular Migration by the Ministry of Interior in March, a Circular on Refugees and Asylum Seekers by the Ministry of Interior in March, a Circular on Asylum Seekers and Refugees by the Social Services and Child Protection Agency in March, a Circular on Procedures concerning Asylum Seekers and Refugees by the Social Services and Child Protection Agency in April, a Circular on Students of Foreign origin by the Ministry of Education in August and an update on the 2006 application directive on asylum by the Ministry of Interior.

²⁵ Kirişçi (2005), Kirişçi (2007 a).

and Serbia, and seems to pursue this policy further in 2011 with discussions with Qatar, Malaysia, Bahrain and Kyrgyzstan. In May 2011, Minister of Foreign Affairs Ahmet Davutoğlu declared that in the last eight years, Turkey reached visa-free agreements with no less than 50 countries.²⁶

Why do we observe this change of approach in Turkey's position on visa policy? Why is visa policy the area where compliance did not occur while all other areas ensured compliance or steps towards compliance? How did the EU react to such an unexpected move? These are all questions that will be answered in the following sections.

The Role Played by the EU: The Different Forms and Degrees of Europeanization

There is not much doubt regarding the central role played by the EU in this process of reforming Turkey's immigration policy. Except for the early changes in asylum policies in the mid-1990s,²⁷ all the other reforms were explicitly situated in the framework of the EU harmonization process.²⁸

As has often been highlighted in the Europeanization literature, the EU can impact candidate countries in a number of different ways, including directly with conditionality requirements and indirectly as it affects a candidate country through a third actor, such as the ECHR (European Court of Human Rights), or domestic actors. Evidence of both processes can be presented here. The direct influence of the EU is evident in some of the 2002–2005 reforms, which were adopted in order to satisfy the Copenhagen political criteria. Subsequently, the adoption of the National Action Plan (and the beginning of its application) is a clear outcome of the EU's conditionality and demands for harmonization. In this particular case, the EU was particularly efficient in ensuring that Turkish authorities plan in detail the reforms needed by using the tool of a "twinning project". In the period 2003–2004, no less than eight twinning projects were initiated on issues such as strengthening institutions in the fight against trafficking in human beings, visa police and practice, asylum, border

²⁶ Anadolu Ajansı (2011).

²⁷ Even these changes, however, were clearly reacting to the European wave of criticism regarding Turkey's approach to asylum in the early 1990s. Kirişçi (1996 b).

²⁸ Kirişçi (2003), Kale (2005), Çiçekli (2006), Kirişçi (2009), Lagrand (2010).

protection, law enforcement and migration issues.²⁹ Since 2010, there are at least two ongoing twinning projects in the field of asylum and migration: one on "supporting Turkey's capacity in combating irregular migration through the establishment of removal centers" and one on "establishing a system of reception, screening and accommodation for asylum seekers and refugees".³⁰ The EU is also funding "the establishment of reception centers in seven key locations in Turkey" and the "set-up of an asylum and country of origin information systems".

But the EU also instigated changes in Turkish asylum and migration policies through indirect means: through decisions taken by the ECHR and by the development of civil society. As a member of the Council of Europe, and party to the European Convention on Human Rights, Turkey has often been on trial in the ECHR, and has often lost the case. Even though the Council of Europe and the EU are two separate institutions, the EU is pressuring Turkey to take the decisions of the Court seriously. Four cases are particularly important in the field of asylum and migration: the case of *Jabari v. Turkey* in 2000,³¹ the case of *Mamatkulov and Askarov v. Turkey* in 2005,³² the case of *Abdolkhani and Karimnia v. Turkey* in 2009³³ and the case of *Charahili v. Turkey* in 2010.³⁴ It is not the place of this article to go into the details of the cases,³⁵ but in each case, Turkey's practices condemned by the Court then triggered a higher awareness on the issue of asylum in Turkey and the shortcomings of the system, which then often prompted changes in the system. Recently, Turkish officials within the Task Force have admitted that they have been "hit hard" by the most recent 2010 decisions of the Court, and that they were determined to put into place a new asylum system that would eschew altogether any such condemnation from the Court in the future.³⁶

But another, more profound and long-term indirect way in which the EU contributed to the process of reforms in Turkey was through civil society. The EU played an important role in encouraging and financing projects upheld by

²⁹ Kirişçi (2007 a, p. 8).

³⁰ See The EU and Turkey Address the Common Challenges of Migration and Asylum (2010).

³¹ Council of Europe: European Court of Human Rights (2000).

³² *Ibid.* (2005).

³³ *Ibid.* (2009).

³⁴ *Ibid.* (2010).

³⁵ Ekşi (2010).

³⁶ Meeting with members of the Migration and Asylum Unit, October 2009, Ankara, Turkey.

Turkish civil society. One of the most striking changes in the migration landscape in Turkey over the first decade of the 21st century has indeed been the creation and expansion of civil society organizations and actors. In 2000, there were very few organizations involved in the field of asylum and migration, and such institutions were almost exclusively engaged in first-hand relief activities. Today, the situation is very different, with a larger number of NGOs very active in the terrain and involved in wide range of activities, from first-hand relief to legal, social and psychological counseling activities, and from raising awareness campaigns to government lobbying activities.³⁷ Many of these NGOs have greatly benefited from the symbolical and financial support of the EU. Symbolically, both the field of asylum and migration and the strengthening of civil society actors has always been a priority for the EU. Financially, the EU has financed several NGO projects,³⁸ as well as large-capacity building projects for Turkish bureaucracy that always emphasizes the consultation and participation of NGOs working in this field.³⁹ Such an indirect means of Europeanization, whereby the EU enables and strengthens (if not creates) pro-EU values domestic actors, who in turn impact the policies decided by the government, are a documented way of Europeanization.⁴⁰

One should, however, not overstate the impact of Europeanization in the field of asylum and migration in Turkey. The process of Europeanization outlined above should not overshadow the fact that Europeanization is incomplete at two different levels. At the policy level, Turkey is still far from having applied all the different reforms envisioned in the National Action Plan necessary to complete the process of harmonization. The most critical items that remain on the to-do list include the lifting of the geographical limitation, the

³⁷ Several NGOs work exclusively on rights and assistance to refugees, asylum seekers and irregular migrants. These include ASAM (Association for Solidarity with Asylum Seekers and Migrants), Mülteci-Der (Association for Solidarity with Refugees) and Mülteci-Net and GDA (the Solidarity Network for Migrants). Many other established NGOs have also created special migrant and refugee programs, such as the Turkish branch of the HCA (Helsinki Citizens' Assembly), MazlumDer (The Association for Human Rights and Solidarity for Oppressed People), Amnesty International, Human Rights Association, IHH (The Foundation for Human Rights and Freedoms and Humanitarian Relief), Deniz Feneri, etc.

³⁸ For instance, in 2009, the EU funded two projects. One with ASAM, called "Suspended Lives, Perceived Lives", aimed at raising awareness and training public authorities and civil society officers on asylum seekers. The second one was with the Human Rights Foundation of Turkey on the effective protection of the rights of refugees, asylum seekers and other persons in need of international protection.

³⁹ Meeting with official from EU delegation in Ankara, March 2011.

⁴⁰ Tocci (2005).

signing of the readmission agreement⁴¹ and the alignment to the Schengen visa system. And at the population level, the Turkish actors that have been socialized and accepted the norms of the EU represent a very limited segment of the broader Turkish population. These include a couple hundred civil society activists, academics and, more recently, officials of Turkish bureaucracy and some politicians. This is not to say that the rest of Turkish population opposes EU norms on asylum and migration, but rather that there is a lack of interest and public discourse on these issues, which makes it difficult to know how the rest of the population truly positions itself. At best, one can therefore only talk of a partial Europeanization.

A more important question regarding the means and types of Europeanization of the issue of asylum and migration in Turkey is the extent to which the observed Europeanization is sincere and genuine, or whether it is simply a tactical move from Turkish counterparts in order to gain particular advantages, the most central one of which is gaining EU membership. Europeanization scholars have framed this question with different terms, such as "policy-Europeanization" vs. "societal-Europeanization",⁴² or Europeanization driven by the "logic of consequences" (according to rational interests) or the "logic of appropriateness" (as actors truly adopt the EU values and believe them to be normatively the most appropriate values).⁴³

In the case of Turkey and migration, one can clearly see the works of the logic of consequences: there is no doubt that Turkish counterparts are using this process of reforms along EU guidance as a means to negotiate particular advantages. This is particularly obvious in the case of the signature of the readmission agreement between Turkey and the EU. In the last six years of negotiations over the readmission agreement, Turkey has used it as a leverage to obtain other readmission agreements with countries sending migrants into Turkey, as well as to negotiate the liberalization of visa requirements for Turkish nationals in the Schengen area.⁴⁴ The case of the lifting of the geographical limitation in Turkey's asylum system is another point in case: in the National Action Plan, this lift has been clearly conditioned on Turkey's entry into the EU, indicating that Turkey does not consider the lift as a goal that could be materi-

⁴¹ Over the course of 2010, negotiations over the readmission agreement had resumed, but they collapsed in early 2011.

⁴² Diez/Agnantopoulos et al. (2005).

⁴³ March/Olsen (1989), Schimmelfennig/Sedelmeier (2005).

⁴⁴ İçduygu (2010).

alized absent of the EU carrot.⁴⁵ But more broadly, one can see how over the years Turkish officials have gained a better understanding of the workings of the EU, and hence have become more skillful and tougher negotiators in the process. From a Turkish perspective, this is only fair, to say the least, as they see their relation with the EU as being strongly imbalanced in favor of the EU, with the EU being able to gain more advantage from the relation than Turkey does. Furthermore, such an approach is not incompatible with a deeper and more genuine form of Europeanization.

In general, it is much more difficult to measure or prove the workings of the logic of appropriateness. In the case of the Europeanization of the issue of migration in Turkey, one can however point at a couple of issues that hinge on a more profound correspondence of so-called “EU” norms and “Turkish” norms (whether it was compatible or was the result of a transformation). The first one is discursive evidence, looking at the ways Turkish actors talk about the issue of migration.⁴⁶ It is very clear from the discourse developed by civil society actors, and a cursory look at the literature that they have developed can easily identify the correspondence between the values upheld in the reports and the ones upheld by the EU. For instance, the website of the NGO Mülteci-Der⁴⁷ is regularly uploaded with European news, court decisions, European NGO reports, etc., alongside with domestic reports and news regarding asylum. Interestingly enough, not only the secular NGOs sisters in form and content to the European NGOs, but also the so-called “Islamic” NGOs would employ, among others, concepts of rights and freedoms that clearly refer to the European norms: “[T]he inhuman conditions of the centers where foreigners are held, the need they have to resort to the administrative court, or even the ECHR because of the hardship they face, etc. are proofs that the legal problems faced by these people need to be solved. What refugees in Turkey need the most is legal assistance. Accordingly, important responsibilities befall on bar associations and NGOs”.⁴⁸

This discursive adoption of European norms and standards can also be noted to some extent with high-ranking officials and bureaucrats in charge of

⁴⁵ Kirişçi (2007 a).

⁴⁶ Beyond the Turkish migration, there have been numerous statements by high-level officials evidencing the genuine adoption (or at least the intent to genuinely adopt) of EU norms. See, for instance, The New Anatolian (2005).

⁴⁷ Mültecilerle Dayanışma Derneği.

⁴⁸ [My translation]. This sentence was said by a lawyer, member of the NGO Mazlumder, during a conference in 2008 organized by İHH. Both Mazlumder and İHH are known for being so-called “Islamic” NGOs. Quote can be found in Düşünce Gündem (2008).

migration in the Turkish political system. It is particularly true of officials who have received some form of training in Europe, and who, on some particular issues only, report their admiration and desire to apply these same standards in Turkey. They tend to appreciate the fact that, in the EU, there is an existing official framework, a clear and intentional immigration policy and allocated means that allows for a more comprehensive and consistent state policy towards migration.⁴⁹

The other piece of evidence that Turkish actors have internalized EU norms on migration is the timing of reforms. Most of the reforms happening after 2005, and especially the current drafting of new legislation, is happening at a time when the EU membership process is stalled, and as chapter 24 (on Justice and Home Affairs, where issues of asylum and migration are mostly contained) is not open to negotiations yet. There is therefore a certain disconnect between the EU membership process and the reforms at stake, which seems to indicate that Turkey is ready to adopt these reforms whatever the outcome of the EU accession process is.

As it is highlighted from the paragraphs above, the existing Europeanization literature and concepts offer a lot of room for a differentiated, nuanced analysis of a complex political process. Turkey, in the field of asylum and migration, is not simply Europeanized or not Europeanized, but rather demonstrates different traits in which a process is ongoing, overall highlighting Europeanization, but also showing areas of resistance and room for future changes. But, this Europeanization story does not tell the whole picture: indeed, it does not explain why some reforms have been unproblematic and why some others are very much problematic. There are indeed some grey zones in the process of reform of migration policies, which cannot easily be grasped and understood from a European perspective using the tools of the Europeanization literature.

The major shortcoming of this literature is that it envisions only non-compliance, slow compliance and fast compliance. It does not envision a case of reversed compliance, or "de-Europeanization". Hence, it can hardly shed any light on the reasons why Turkey, after an initial period of compliance in the field of visa regulation, then changed its mind and reversed its policy of applying the Schengen visa system to Turkey. Another related and more subtle shortcoming of the Europeanization literature relates to its underlying as-

⁴⁹ Meeting with members of the Migration and Asylum Unit, October 2009, Ankara, Turkey.

sumption that the body of values, rules, regulations and practices embodied in the EU legal system is coherent. Therefore, according to this logic, the only conflict that can occur during the “Europeanization” process is one between domestic rules and the EU. What the analysis of Turkey’s immigration policy reform demonstrates is that the EU system is in itself internally inconsistent and conflictual, which creates both problems and opportunities for domestic actors engaged in Europeanization. Very early on, Turkish officials have been aware of the contradictions inherent in the EU legal system in the realm of asylum and migration.⁵⁰

Turkey’s Critical Reading of EU Migration Policies

Europeanization is rarely a neat and consensual political process, which rallies the unanimous efforts of the different segments of the population. In almost every case, Europeanization challenges the existing balance of interests and forces within a particular political system, enabling some actors while disabling some others, hence creating supporters and opponents to this Europeanization. In the case of asylum and migration in Turkey, however, it seems that, from the beginning, Europeanization has triggered a particularly high level of frustration, anger and feelings of unfairness. Whatever the reasons behind this situation (whether the situation is objectively unfair or whether Turkish actors are more prone to be critical of the EU), this has created a situation where, for the last 20 years, EU migration policies and practices have been read through a particularly critical lens in Turkey.

These critical arguments articulated in Turkey can be summarized as follows. The first level of critique is about the *cost of change* and is a rather straightforward and superficial critique, emphasizing the high-level costs implied by some reforms of the system. This is particularly the case for policies that require either Turkey to accept and better receive migrants (mainly asylum seekers and refugees), or to have a more active policy for controlling migration, especially at the borders. The argument goes that this requires extensive investment in an area that may not be a priority for Turkey, even though it is a priority for the EU: “We agree to cooperate, but to put into place detention centers, we need financial support from the EU.”⁵¹

⁵⁰ See, for instance, the early writings of Kirişçi (1996 c), Kirişçi (1996 b), Kirişçi (2000).

⁵¹ [My translation.] Meeting with a member of the Asylum and Migration Unit, October 2009, Istanbul, Turkey.

The second level of critique is focusing on the process of EU accession, and the fact that there is an *imbalance of power* between the EU and Turkey. "Accession negotiations" is a poor term to reflect a process whereby Turkey has little to negotiate except the timing of reforms, given that the ultimate content of the reforms to be adopted are already pre-determined (the EU *acquis*).⁵² Consequently, Turkey has no leverage over the process and is doomed to accept whatever demands the EU has, even if inappropriate. It is obvious, for instance, that Turkish counterparts are not comfortable and very critical about the EU visa policy scheme, but, in the long term, it does not seem that Turkey will have any alternative options, unless it is willing to jeopardize its EU membership.⁵³

A third level of critique, again a process-oriented critique, relates to the *contradictory demands* and mixed signals sent to Turkey by the EU. There is indeed a keen sense of frustration and powerlessness from Turkish officials on the fact that the EU seems to be asking Turkey to simultaneously be "nicer on asylum seekers" and "tougher on irregular migrants" when in reality the distinction between the two is very blurred. This led to a situation where whatever Turkish authorities do, they will end up being harshly criticized by some EU actors. For instance, the rise in the number of apprehensions of irregular migrants by Turkish police forces in 2000 and 2001 was correlated with an increase in criticism on Turkey over its violation of migrants and asylum seekers' rights.

A fourth level of critique is content-oriented and rests on the perceived securitization of the issue of migration in Europe, and the fact that these policies are *unfair to migrants*. Not all Turkish actors have raised such a voice, as some actors have readily accepted the securitized understanding of migration.⁵⁴ But, some have been extremely vocal against often invoking the "cool-bloodedness and materialism" of Europeans contrasting to the "empathy and emotionalism" of Turks. The argument goes that seeing migrants from a security perspective dehumanizes migrants, and that it is not appropriate for Europe to ask Turkey to apply securitized policies.⁵⁵

⁵² Tolay (2009).

⁵³ Meeting with a high-ranking official in the Prime Minister's office, October 2009, Istanbul, Turkey.

⁵⁴ Biehl (2009).

⁵⁵ [My translations.] "If Turkey initiates the writing of a comprehensive asylum policy, for sure it will be more humanistic than the European approach. In Europe, the approach to migration is more materialist, i. e., the main question in their mind is 'how much will I gain from migrants' labor?' In Turkey, the culture is different, our approach is more social and human-

A fifth content-oriented level of critique is one that emphasizes how EU demands are *unfair to Turkey*. This relates to the deeply imprinted impression in Turkey that the EU migration policies and demands on Turkey are designed to use Turkey as a buffer zone and dumping ground of migrants in the process of building “Fortress Europe”. It also ties to the perception that Europe is trying to shift the burden of migration onto Turkey (as opposed to sharing the burden) and that the EU is instrumentally using the accession process as a tool to “make good use” of Turkey.⁵⁶

Finally, the sixth content-oriented critique, inter-related with the two previous ones, points out the *faultiness of certain EU migration policy*. This is especially the case with the Schengen visa policy, about which Turkish counterparts emphasize the hypocrisy. The EU puts a strong emphasis on the benefits of a visa-free regime for the creation of a zone of stability and prosperity, as the EU did internally in the earlier years of the Community. However, it excludes third neighboring countries (including candidate countries) from this zone of stability and prosperity with a restrictive external visa policy.⁵⁷ Turkish citizens are particularly frustrated and vocal about the unfairness of the strict visa regime that the EU applied to them.⁵⁸ It is therefore unsurprising that Turkey would be reluctant to adopt a similar policy, hence partly explaining the “visa-openings” in which Turkey is involved. The fact that Turkey is positioned on the other side of the fence on this issue makes it particularly easy and convenient to identify the faultiness and critique EU policies.

Understanding these critiques helps us understand the scope, extent and limits of some of the reforms undertaken in Turkey in the realm of asylum and immigration. In particular, it explains why many reforms were undertaken,

istic”. Meeting with members of the Migration and Asylum Unit, October 2009, Ankara, Turkey. “Turkey sees the visa as a tool of soft power, as a way to reduce illegal migration. The EU, on the other hand, sees it as a security issue”. Meeting with an official from the Ministry of Foreign Affairs, October 2009, Ankara, Turkey.

⁵⁶ [My translations.] “It is conditional that the EU eventually shares the financial burden with Turkey. But even so, the police here is reluctant and feeling that we are going to become the ‘refugee garbage of the EU’”. Meeting with a civil society activist, October 2009, Izmir, Turkey. “Now the EU is simply dumping people to Turkey”. Meeting with an official from the Ministry of Foreign Affairs, October 2009, Ankara, Turkey. See also Kirişçi (2009).

⁵⁷ Even though, with the ENP, the EU signaled its intention to facilitate and/or liberalize visa requirements with neighboring countries, but without much success so far.

⁵⁸ See in particular the reports published by IKV (Economic Development Foundation) as one illustration of the amount of frustration and activism developed in regards to EU visa requirements towards Turkish citizens. IKV-228 “Visa Hotline Project” – Background Paper: Turkish Citizens’ Rights in the EU. IKV-231: “Visa Hotline Project” Project Report. IKV-232: Visa Policy of Member States and the EU Towards Turkish Nationals After Soysal. IKV-233: “Visa Hotline Project” – Survey Report.

while signing the readmission agreement and applying the Schengen visa system were resisted (because they present securitized approach to migration) and so is the lifting of the geographical limitation (because of the cost it would entail for Turkey).

But it also tells a particularly interesting story regarding the extent of Europeanization in Turkey. On one hand, it demonstrates a certain distance put between Turkey and Europe. Partly as a reaction to the perceived "othering" done by the Europeans, Turkish counterparts also perceive Europeans as "them" and are able to distinguish their practice and their norms from "ours" (Turkish ones). But on the other hand, it also demonstrates a deep appropriation of EU norms (regarding migrants' rights and the virtuous effects of open borders and integration), strong enough that Turkish counterparts are able to identify and criticize when European partners do not live up to their own standards. In that sense, and at least in the realm of migration policy, Turkish citizenship can claim the intent to "become more European than the Europeans".⁵⁹

This statement, "be more European than the Europeans", which can be heard repetitively in Turkey in many different contexts, is very ambivalent and should be understood in the framework of this ambivalence. It is indeed often associated with an acute sense of national pride, which seems contradictory since it does not affirm that "Turks are better than the Europeans" but links the proud feeling of being Turkish with Europeaness. It should also be understood as a "sweet avenging" against Europeans, as they have always upheld Turkish people as "inferiors". This statement is also rooted in a new feeling of confidence born out of Turkey's recent economic expansion and pro-active foreign policy, at a time when Europe seems to be confounded in a succession of crises. But more fundamentally, this statement is grounded in the late-19th/early-20th century association of Europe with the "standards of civilization", an evidently European discourse that also took root in the late Ottoman Empire and in the young Turkey. Later in the 20th century this association between Europe and the standards of civilization was transformed into the as-

⁵⁹ Meeting, Ministry of Interior, October 2009. See also: [My translations.] "There was a UNHCR program in Poland in 1998. Poland had no previous experience with asylum. We will not do like Poland, we are very experienced, and we will put into place a policy that is suitable to our country. We can do better than Poland. Already, what we put into place between 2003 and 2007 was done, even before the deadline was set. We internalized the norms and acted fast". Meeting with an official from the police department, October 2009, Ankara, Turkey. "The EU is making transactions with people, and thinks of migration at a political level. Our policy will be done according to our own standards, and the EU will see us as an example". Meeting with a police official, October 2009, Van, Turkey.

sociation of Europe (or the West) and democracy, to the extent that for many the term “Europeanization” equaled the meaning of “democratization”. In many ways, Turkey in the 21st century engaged in the process of decoupling these two terms, hence addressing a problem of cognitive dissonance that has plagued Turkish history whereby Turkey would both praise Europe for what it achieved, and despise Europe at the same time for what it had done to Turkey. Such a decoupling is not an easy process, however, hence it is characterized by contradictions and ambiguities.

This particular process in itself should be good news to Europe. Not because it means that Turkey will become a docile partner in negotiations – on the contrary, evidence seems to show that Turkey’s character will continue to be felt strongly at all stages of negotiations – but because, in the field of asylum and migration, Turkey is truly adhering to the positive norms defended by the EU. In many ways, Turkey is demonstrating that they are becoming “good but demanding Europeans”. The positive aspect of this is that this “critical Europeanization” of Turkey is working as a strong source of motivation for further reforms in Turkey. This comes at a time when Turkey feels rejected by the EU, and contrary to what had happened in a similar situation in the late 1990s, the rejection is not directly negatively impacting the process of reforms (at least in this area) – reforms can be undertaken even despite the ill-will of the EU.⁶⁰ Secondly, it is also good news for the EU, as Turkey can help the EU be more aware of some problematic policies, or play as a laboratory for new policies (as is the case with the visa policy now). This can explain why, for instance, the EU has so far refrained from openly criticizing Ankara’s visa policy even though it openly contradicts its EU bid European partners are curious to see how viable and replicable in less stable regions an open visa policy is. As for future reversals of the implementation of the Schengen visa system, high-ranking officials are not saying that they gave up on the Schengen visa system, but rather that it can be applied later, at which point there will, in principle, be a change in the visa-free agreements with most Middle Eastern countries. Some officials even believe that by then Turkey will have succeeded in convincing their European partners that a liberal external visa policy would also be beneficial to EU.⁶¹

⁶⁰ [My translation.] “Why the reforms now? Everything should be done in time, we became aware of the issue, and we created a new public opinion on the issue of migration. The timing of the EU does not matter so much anymore”. Meeting with members of the Migration and Asylum Unit, October 2009, Ankara, Turkey.

Nevertheless, this analysis should not overshadow the rest of the story. The phenomenon of "critical Europeanization" that has been identified here is a nascent phenomenon, a particularly interesting one that should be closely observed, but not a very broad and representative one. We have found evidence of this among a small segment of the population, and regarding a very particular issue (asylum and migration). The more general story seems to be one of a combination of traditional Europeanization with trends of resistance, which could be a source of concerns. However, given the background and interesting ambivalent relationship that Turkey has entertained with Europe, it might be that "critical Europeanization" is potentially a broader phenomenon that could explain and predict much more of Turkish behaviors in the future.

Conclusion

This chapter has identified the existence, in the field of asylum and migration, of a non-traditional form of Europeanization, referred to as "Critical Europeanization". On asylum and migration, Turkey has engaged in a formidable process of reform, testifying to its willingness to harmonize its regulation to the EU *acquis*. However, the rationale behind these reforms are rooted both in the acceptance of the desirability of many of the norms and policies and in the critique addressed to many EU policies towards immigration. On that note, the form of Europeanization that Turkey has engaged in is one that adopts the norms, internalizes them, and is able to use them confidently as standards to which they can uphold EU policies and demands towards Turkey, hence developing an openly critical voice towards the EU. It is a very reinsuring phenomenon for the EU, who gained, admittedly, a difficult partner, but also one that can truly contribute to the EU construction. The fact that some segments of Turkish bureaucracy have internalized the idea of having a more systematic and rule-based policy toward migration will ease the path of reform in the future by decreasing the fear that EU demands will go against Turkish interests. But, the road will remain bumpy.

⁶¹ [My translation.] "Our visa policy is in contradiction to the EU policy? So what? When we get into the EU, then we will change our position. This is not at all a problem". Meeting with a high-ranking official in the Prime Minister's office, October 2008, Istanbul, Turkey.

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